compelled to give a link to a chain of evidence by which his conviction of a criminal offense can be furthered. This proposition, however, cannot be maintained to its full extent, since there is no answer which a witness could give which might not become part of a supposable concatenation of incidents from which criminality of some kind might be inferred. To protect the witness from answering, it must appear, from the nature of the evidence which the witness is called to give, that there is reasonable ground to apprehend that, should he answer, he would be exposed to a criminal prosecution. The witness, as will presently be seen, is not exclusive judge as to whether he is entitled on this ground to refuse to answer. The question is for the discretion of the judge, and, in exercising this discretion, he must be governed as much by his personal perception of the peculiarities of the case as by the facts actually in evidence. But, in any view, the danger to be apprehended must be real, with reference to the probable operation of law in the ordinary course of things, and not merely speculative, having reference to some remote and unlikely contingency.'"

'In § 469 of the same work it is stated that the witness is not the sole judge of his liability. The liability must appear reasonable to the court, or the witness will be compelled to answer. Numerous cases are cited in the notes in support of the proposition as stated in the text.'

The opinion of Chief Justice Marshall, of the Supreme Court of the United States, in the celebrated trial of the United States *v.* Burr, 25 Fed. Cas. p. 38, No. 14692E, establishes the correctness of this principal beyond controversy.

So we are in no doubt on the question that the court before whom the contemner refuses to answer must determine in the first instance the soundness of the contention that the answer would show or tend to show the witness penally connected with a crime. The trial court, in the instant case, has decided against relator."

False Labels on Underwear Subject to Prohibition by Trade Commission.—In Federal Trade Commission *v.* Winsted Hosiery Co., 42 Sup. Ct. 384, the Supreme Court of the United States held that where labels used by a manufacturer of underwear, designating the goods, which were made of wool mixed with cotton or silk, as "natural merino," "gray wool," "natural wool," "natural worsted," or "Australian wool," were false and misleading, and the Trade Commission found on sufficient evidence that dealers and consumers were deceived thereby, the use of such labels amounted to unfair competition against other manufacturers who correctly labeled their goods when they were not made of all wool, and use of such labels can be prevented by the Commission under Act Sept. 26, 1914, § 5 (Comp. St. § 8836c).

Mr. Justice Brandeis who delivered the opinion of the court said in part:

"The labels in question are literally false, and, except those which bear the word "Merino," are palpably so. All are, as the Commission

found, calculated to deceive and do in fact deceive a substantial portion of the purchasing public. That deception is due primarily to the words of the labels, and not to deliberate deception by the retailers from whom the consumer purchases. While it is true that a secondary meaning of the word "Merino" is shown, it is not a meaning so thoroughly established that the description which the label carries has ceased to deceive the public; for even buyers for retailers, and sales people, are found to have been misled. The facts show that it is to the interest of the public that a proceeding to stop the practice be brought. And they show also that the practice constitutes an unfair method of competition as against manufacturers of all wool knit underwear and as against those manufacturers of mixed wool and cotton underwear who brand their product truthfully. For when misbranded goods attract customers by means of the fraud which they perpetrate, trade is diverted from the producer of truthfully marked goods. That these honest manufacturers might protect their trade by also resorting to deceptive labels is no defense to this proceeding brought against the Winsted Company in the public interest.

The fact that misrepresentation and misdescription have become so common in the knit underwear trade that most dealers no longer accept labels at their face value does not prevent their use being an unfair method of competition. A method inherently unfair does not cease to be so because those competed against have become aware of the wrongful practice. Nor does it cease to be unfair because the falsity of the manufacturer's representation has become so well known to the trade that dealers, as distinguished from consumers, are no longer deceived. The honest manufacturer's business may suffer, not merely through a competitor's deceiving his direct customer, the retailer, but also through the competitor's putting into the hands of the retailer an unlawful instrument, which enables the retailer to increase his own sales of the dishonest goods, thereby lessening the market for the honest product. That a person is a wrongdoer who so furnishes another with the means of consummating a fraud has long been a part of the law of unfair competition. Von Mumm *v.* Frash (C. C.) 56 Fed. 830; Coca-Cola Co. *v.* Gay-Ola Co., 200 Fed. 720, 722, 119 C. C. A. 164; New England Awl & Needle Co. *v.* Marlsborough Awl & Needle Co., 168 Mass. 154, 155, 46 N. E. 386, 60 Am. St. Rep. 377. And trade-marks which deceive the public are denied protection although members of the trade are not misled thereby. Manhattan Medicine Co. *v.* Wood, 108 U. S. 218, 2 Sup. Ct. 436, 27 L. Ed. 706; Worden *v.* California Fig Syrup Co., 187 U. S. 516, 538, 23 Sup. Ct. 161, 47 L. Ed. 282. As a substantial part of the public was still misled by the use of the labels which the Winsted Company employed, the public had an interest in stopping the practice as wrongful; and since the business of its trade rivals who marked their goods truthfully was necessarily affected by that practice, the Commission was justified in its conclusion that the practice constituted an unfair method of competition; and it was authorized to order that the practice be discontinued."